



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

VIA UPS

DEC 11 2015

Mr Eric Miller
EHS Manager
AC & S, Inc
150 Plant Road
Nitro, WV 25143

Re Request for Information Pursuant to Section 3007(a) of the Resource Conservation and Recovery Act, 42 U S C § 6927(a), Regarding Generation and Management of Hazardous Waste by AC & S, Inc

Information Request - Reference No C16-003
EPA ID No WVD981730757

Dear Mr Miller

The U.S. Environmental Protection Agency, Region III ('EPA') is requesting information to supplement the information obtained from its inspection of the AC & S, Inc facility ('ACS' or 'the Facility') located in Nitro, WV on September 23-25, 2014, and from the information you provided to EPA in ACS's June 16, 2015 response letter. EPA is requesting this information pursuant to the authority granted to it under Section 3007(a) of the Resource Conservation and Recovery Act ('RCRA'), 42 U S C § 6927(a), which provides in relevant part that any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous wastes shall, upon request of any officer, employee or representative of the Environmental Protection Agency, duly designated by the Administrator, furnish information relating to such wastes. EPA hereby requires that you furnish to EPA, within **thirty (30) calendar days** of receipt of this letter, the information requested below, including all documents responsive to such request.

For each and every request, if you have any reason to believe that there may be a person(s) who may be able to provide a more detailed or complete response to such request or may be able to provide additional responsive documents, then as a part of your response to such request, identify each such person and the additional information or documents which such person may be able to provide. Furthermore, for each and every response, if information or documents responsive to such request are not in your possession, custody or control, then as part of your response to such request, identify each person from whom such information or documents may be obtained.

Please provide a separate narrative response to each information request. Precede each answer with the number of the question or letter of the subpart of the request to which it corresponds. A request for documents shall be construed as a request for any and all documents maintained by you or in your custody, control, or possession or in the possession, custody or control of any of your employees or agents, relating to the matters described below. All copies of documents submitted to EPA in response to the following requests must be complete and legible.

As used herein the term "document" means writings (handwritten, typed or otherwise produced or reproduced) and includes, but is not limited to, any invoices, checks, receipts, bills of lading, weight receipts, toll receipts, correspondence, offers, contracts, agreements, deeds, leases, manifests, licenses, permits, bids, proposals, policies of insurance, logs, books of original entry, minutes of meetings, memoranda, notes, calendar or daily entries, agendas, bulletins, notices, announcements, charts, maps, photographs, drawings, manuals, brochures, reports of scientific study or investigation, schedules, price lists, telegrams, teletypes, phonograph records, magnetic voice or video records, tapes, summaries, magnetic tapes, punch cards, recordings, discs, computer print outs, or other data compilations from which information can be obtained or translated.

All other terms used in this request for information that are defined in RCRA, 42 U.S.C. §§ 6901 *et seq.*, or 40 C.F.R. Parts 260, 266 and 268 shall have the meanings set forth therein.

Requested Information

1. In your June 16, 2015 response to Question 6 a, you stated: *The contents of the containers inside the referenced trailer were not generated. The contents of the containers were either raw materials or finished product except for one container labeled Albright HCLP Phosphate.* You also provided information that was summarized in a table that described the contents of each container. For the contents of each container for which you determined in your response to be "raw material received from customer for production use", please provide the following information:
 - a. Provide a Material Safety Data Sheet ("MSDS") and/or SDS for the contents of each container.
 - b. State the name, address, and contact information for the entity from which ACS purchased the contents of each container from.
 - c. Provide any records (e.g., invoices, bills of lading, receipts, purchase orders, bills of sale, etc.) to document the purchase of the contents of each container.
 - d. Describe how the contents of each container is used by the Facility in its manufacturing process(es), and describe the location at the Facility where the material is used.
 - e. Provide the name of the product(s) for which the contents of each container is

- used to produce, and provide the name address, and contact information for the active inactive, and/or past customers to which such products are sold
- f For the contents of each container, describe in detail any specifications that exist for it to be used in ACS's manufacturing processes (e.g. minimum concentration of an active ingredient, maximum concentrations of contaminants, and/or dates beyond which the material should not be used), and provide all analytical testing results and/or other documentation to verify that the material meets such specifications for use
 - g Describe, in detail, any standard operating procedures ACS has in place to ensure that such specifications are met in order for the contents of each container to be used for its intended purpose
 - h Please indicate the exact date when the content of each container was last used by the Facility in any of its production processes. If an exact date cannot be determined, please estimate the month and year
 - i Please indicate the exact date when the product(s) you stated in your response to Question 1 e above were last made by the Facility. If an exact date cannot be determined, please estimate the month and year
- 2 Regarding the contents of each container stored in the trailer that was determined by the Facility to be finished product, as indicated in your June 16, 2015 response to Question 6 a, please provide the following information
- a Provide a Material Safety Data Sheet (MSDS) and/or SDS for the contents of each container
 - b State the name, address, and contact information for the active, inactive, and/or past customers to which the contents of each container are sold
 - c Provide any records (e.g. invoices, bills of lading, receipts, purchase orders, bills of sale, contracts, etc.) to document any recent, past, and/or future sales of such material
 - d State the name(s) of any of the material that was returned and/or rejected by a customer. For each such material, provide the following: i) the name and contact information of the intended customer(s) of any returned and/or rejected material; ii) the exact date the material was returned and/or rejected. If an exact date cannot be determined, please estimate the month and year; iii) explain, in detail, why the customer returned and/or rejected the material; and iv) explain what the Facility intends to do with such material
 - e Describe, in detail, any standard operating procedures that ACS has in place for

accepting and managing returned and/or rejected material in order for such material to be used for its intended purpose, and if procedures are in place provide any documentation the Facility has on file to show such procedures were implemented for each of the containers

- f Describe in detail any product specifications (e.g., minimum concentration of an active ingredient, maximum concentrations of contaminants, etc.) that exist for any of the materials to be sold as products and provide all analytical testing results and/or other documentation to verify that the material meets such specifications

3 In your June 16, 2015 response to Question 6 a, you stated *The contents of the containers inside the referenced trailer were not generated. The contents of the containers were either raw materials or finished product except for one container labeled Albright HCLP Phosphate*. Regarding the contents of each container stored in the trailer that was identified as "Albright HCLP Phosphate", as indicated in your June 16, 2015 response to Question 6 a, please provide the following information:

- a Provide a detailed description of the process or processes that generated the content of the container and please provide a detailed description of the content of the container
- b Provide the date on which the content of the container was generated and state the basis of your knowledge. If an exact date cannot be determined, please estimate the generation month and year
- c State whether or not a waste determination and LDR determination were made for the content of the container
- d If a waste determination was made for the content of the container, state whether the waste determination was based on analytic results or on the generator's knowledge of the process that generated the waste. If the determination was based on analytical results, provide any and all documentation of such results. If the determination was based upon the generator's knowledge, provide a narrative explanation of the scientific basis for each such determination, and provide any supporting documentation
- e Was the content in the container determined to be hazardous waste? If so, please state the specific EPA Hazardous Waste Code(s) associated with the content of each container that was determined to be hazardous waste
- f If the content of the container was shipped off site, submit copies of all bills of lading manifests (hazardous and non hazardous), shipping invoices, and LDR notices/certifications that accompanied each off-site shipment of the waste

- g If the content of the container still remains on site, please state where such contents are currently located within the Facility and how such contents are currently being managed
 - h If ACS has determined the container to be *raw material* provide the information as requested above in Questions 1 a through 1 i
 - i If ACS has determined the container to be *finished product* , provide the information as requested above in Questions 2 a through 1 f
- 4 During the September 2014 EPA CEI, the EPA inspector observed raw materials store in Building 11 The Facility referred to Building 11 as the "hot house," which the Facility uses to store some of its raw materials that need to be kept warm Please provide a list all the raw materials the Facility stores in the hot house
- 5 In your June 16 2015 response to Question 8 a ACS provided a list of names for each employee responsible for the handling/management of hazardous waste at the Facility from June, 2010 to the present For each of the names you listed in the table, please provide i) the date (month & year) each employee began working at the Facility, and ii) if any of the employee(s) on the list no longer work at the Facility, indicate the date (month & year) when such employees ended their respective employment
- 6 During the September, 2014 EPA CEI Facility personnel indicated that between product changes, xylene is used to clean out the blue dye reactor and affiliated piping as seen in Photo #34, #36, & #37 of the attached EPA CEI report The xylene can be reused for clean outs to the point where it is contaminated with 30% dye, at which point the xylene is collected in totes and sent offsite as hazardous waste Please provide the following information regarding the cleanout xylene and its handling systems
- a A detailed schematic of the cleanout xylene handling systems, including sources, equipment, piping, transfer mechanisms, and all tanks and containers involved in temporary or final collection/management
 - b A detailed description of all equipment included in the cleanout xylene handling system, including all pumps, compressors, pressure relief devices, sampling connection systems, open ended valves or lines, valves, flanges or other connectors closed-vent systems and control devices
 - c State as precisely as possible, how many times the cleanout xylene is sampled per batch to determine if the color assay is greater than 30% If you cannot state the exact number of samples per batch, please estimate on average, how many times, and explain the basis for such an estimate
 - d State, as precisely as possible, how many batches the Facility completed per month using the blue dye reactor from January 1, 2011 to the present, and provide

the basis of your knowledge. If you cannot state the amount on a monthly basis please state the number of batches during the smallest intervals for which you are capable of providing such information.

- e Submit copies of all completed xylene cleanout procedure forms (as shown in Attachment #12 of your June 16, 2015 IRL response) retained by the Facility for the xylene cleanout of blue dye reactor and affiliated piping that occurred during the time period of January 1, 2011 up to the present.
- f Of the completed xylene cleanout procedure forms provided in your response to Question 6 e above, please state how many of the forms represent and/or indicate the collection of xylene cleanout of blue dye reactor and affiliated piping into a tote that was subsequently sampled and determined to be a hazardous waste.
- g Provide a detailed list of any and all types and amounts of cleanout solvent(s) entering the cleanout solvent handling systems from January 1, 2011 up to the present time, and the percent organic concentration by weight of each cleanout solvent. Please include all EPA Hazardous Waste Code(s) (if applicable) and copies of all MSDS sheets relating to xylene(s) used.
- h Please state, for the blue dye reactor cleanout xylene collected into a tote from January 1, 2011 up to the present time, whether or not any was reclaimed, recycled or reused in production as raw material after collection in the tote. Provide a copy of any and all documentation substantiating such claims of reclamation, recycling or reuse.
- i State whether or not the Facility has conducted an analysis to determine applicability of the Subpart BB regulations to this equipment, as described in 40 C.F.R. § 265.1063(d) and § 265.13(b).
- j If an applicability determination, as described in 40 C.F.R. § 265.1063(d) and § 265.13(b), had been made for this equipment, state when such a determination(s) was made and the results of such determination(s). Please provide a copy of any and all documentation used to support such a determination.
- k Provide information/documentation that demonstrates whether or not those pieces of equipment listed in response to Question 6 b above are or are not exempt from the air emission standards for equipment leaks as specified in 40 C.F.R. § 265.1050.
- l If the Facility has determined that any piece of equipment is exempt please provide the waste analysis plan, as specified in 40 C.F.R. § 265.1063(d), along with either the sample results or process knowledge documentation upon which the exemption is based.

- m State whether or not each piece of equipment has been marked in such a manner that it can be distinguished readily from other pieces of equipment in accordance with 40 C F R § 265 1050(c) regardless of whether the Facility is claiming an exemption for any piece of such equipment
- n Has the Facility maintained those records required under 40 C F R §§ 265 1064(b)(1), 265 1064(g) and 265 1064(h)? If so, please state the date on which the Facility began maintaining such records and submit copies of any and all records required under 40 C F R §§ 265 1064(b)(1), 265 1064(g) and 265 1064(h) from the September 2014 EPA inspection up to the present

The provisions of Section 3008 of RCRA, 42 U S C § 6928, authorize EPA to pursue penalties for failure to comply with or respond adequately to an information request under Section 3007(a) of RCRA. In addition, providing false fictitious or fraudulent statements or representations may subject you to criminal penalties under 18 U S C § 1001. The information you provide may be used by EPA in administrative, civil or criminal proceedings.

Your facility is entitled to assert a claim of business confidentiality covering any part or all of the information submitted, in a manner described in 40 C F R § 2.203(b). Information subject to a claim of business confidentiality will be made available to the public only in accordance with 40 C F R Part 2, Subpart B. Unless a claim of business confidentiality is asserted at the time the requested information is submitted, EPA may make this information available to the public without further notice to your facility.

This request for information is not subject to review by the Office of Management and Budget pursuant to the Paperwork Reduction Act, 44 U S C §§ 3501-3520.

Your response must include the following signed and dated certification:

I certify that the information contained in this response to EPA's request for information and the accompanying documents is true, accurate and complete. As to the identified portions of this response for which I cannot personally verify their accuracy, I certify under penalty of law that this response and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature _____
 Name _____
 Title _____

Please send your response to

Andrew Ma
US EPA Region III
Environmental Science Center
701 Mapes Road
Fort Meade, MD 20755-5350

If you have any questions concerning this matter please contact Mr Andrew Ma at (410)
305 3429

Sincerely,

A handwritten signature in cursive script that reads "Carol Amend".

Carol Amend, Associate Director
Land and Chemicals Division
Office of Land Enforcement

cc A Ma (3LC70)